IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17015 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANCHMAHALS JILLA UTKARSH MANDAL - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MS MAMTA R VYAS for Petitioner(s) : 1,
MR SHIVANG SHUKLA, AGP. for Respondent(s) : 1 - 2.
DS AFF.NOT FILED (N) for Respondent(s) : 1, 3,
NOTICE SERVED BY DS for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 17/07/2007

ORAL JUDGMENT

1 Rule. Learned Assistant Government Pleader is directed to waive service. By consent of the learned Advocates appearing for the respective parties the matter is taken up for final hearing today.

2 This petition challenges order dated 28.6.2007 made by respondent No.2 – Authority whereunder the recognition granted to the petitioner vide order dated 25.5.2007 stands suspended till further orders of recognition are made.

3 On 9.7.2007 notice was issued in the following terms :

> *"The grievance of the petitioner is that the impugned order dated 28.06.2007 has been made without any opportunity of hearing to the petitioner. Notice returanble on 17th July, 2007. Direct service."*

4 Mr.Shivang Shukla, learned Assistant Government Pleader appears on behalf of the authority and states that the impugned order was made without hearing the petitioner only for the limited purpose of ensuring that on the basis of earlier recognition granted on 25.5.2007 no admissions are granted by the petitioner School creating equity in favour of third parties. That the impugned order was required to be made as certain inquiry has been initiated by the authority and such

inquiry is in process. However, he is not in a position to dispute the fact that the impugned order was made without granting an opportunity of hearing to the petitioner.

5 In the circumstances, without entering into any discussion on merits of the controversy between the parties impugned order dated 28.6.2007 is hereby quashed and set aside qua the petitioner leaving it open to the respondent authority to grant reasonable opportunity of hearing to the petitioner before passing any order including an order of suspending the earlier order.

6 In the petition a further prayer is made seeking direction to the petitioner to run the Ashram Shala pursuant to order dated 25.5.2007 granting recognition . No such direction can be issued because it is for the petitioner to decide whether the petitioner should run the Ashram Shala or not especially in the facts and circumstances which have come on record as per statement made by the learned Assistant Government Pleader.

7 In the circumstances, impugned order dated 28.6.2007 is hereby quashed and set aside qua the petitioner as the same having been made in violation of principles of natural

justice leaving it open to the parties to act in accordance with law. The petition is allowed accordingly to the aforesaid extent. Rule made absolute. There shall be no order as to costs.

Sd/-
(D.A. Mehta, J.)

m.m.bhatt